HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Fisheries and Oceans

FOPO • NUMBER 103 • 1st SESSION • 42nd PARLIAMENT

EVIDENCE

Thursday, May 24, 2018

Chair

Mrs. Bernadette Jordan

Standing Committee on Fisheries and Oceans

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● (0850)

[*English*]

The Chair (Mrs. Bernadette Jordan (South Shore—St. Margarets, Lib.)): Good morning, everyone.

Welcome to meeting 103 of the Standing Committee on Fisheries and Oceans, pursuant to the order of reference of Monday, April 16, 2018, Bill C-68, an act to amend the Fisheries Act and other acts in consequence.

Carrying on with our clause-by-clause, we have Mr. Mark Waddell and Mr. Nick Winfield with us today from the department. Thank you for returning. We're glad to have you back.

(On clause 53)

The Chair: We will pick up where we left off, on clause 53.

We have amendment LIB-14. Is there any discussion on the amendment?

The Chair: Mr. Morrissey.

Mr. Robert Morrissey (Egmont, Lib.): This clarifies the application of the transition provisions during the period between royal assent and coming into force of the fish habitat protection provisions of this particular act. The proposed changes will respond to concerns raised by industry associations—the Mining Association of Canada—particularly with regards to transition provisions, in clause 53 in the bill. The amendment will reflect the government's policy principle that no project will be sent back to the beginning of the process and more closely align with the transition process it provides. That was a key issue addressed by the Mining Association in their brief before the committee.

The Chair: Is there any other discussion on amendment LIB-14?

(Amendment agreed to on division)

(Clause 53 as amended agreed to on division)

The Chair: Do I have the committee's permission to group clauses 54 to 58?

(Clauses 54 to 58 inclusive agreed to on division)

The Chair: Mr. Arnold.

Mr. Mel Arnold (North Okanagan—Shuswap, CPC): Could the member explain why section 9 comes into force on the first anniversary of...?

The Chair: Mr. Arnold, the amendment wasn't moved.

(Clause 59 agreed to)

(On clause 9)

The Chair: We'll now go back to clause 9, which we had stand on Tuesday.

We are on amendment NDP-6.

I will say that if NDP-6 is adopted, LIB-1.1 cannot be moved because there is a line conflict.

Mr. Larry Miller (Bruce—Grey—Owen Sound, CPC): Can we just have a recap of why it was that we allowed clause 9 to stand?

The Chair: It was to clarify some language. I believe that is what they had asked for.

Mr. Donnelly, did you want to address NDP-6?

Mr. Fin Donnelly (Port Moody—Coquitlam, NDP): Madam Chair, I'm not going to move this one.

The Chair: Okay.

We are on LIB-1.1.

Mr. Rogers.

Mr. Churence Rogers (Bonavista—Burin—Trinity, Lib.): Before we deal with LIB-1.1, I'd like to ask permission to propose subsection 6(3), an amendment to this LIB-1.1.

As a proposed subsection, 6.3 reads:

> The major fish stock referred to in sections 6.1 and 6.2 are to be prescribed by regulations.

That would be incorporated in LIB-1.1.

● (0855)

The Chair: It's quite a long amendment so we will give you some time to have a look at that and the proposed subsection.

We'll suspend for two minutes.

● _____ (Pause) _____

●

● (0900)

The Chair: Mr. Rogers did you want to speak to this, please?

Mr. Churence Rogers: There's one correction in the French version. Pat is going to make a comment on that.

[*Translation*]

Mr. Pat Finnigan (Miramichi—Grand Lake, Lib.): There is an error in the French translation.

The amendment should read:

> Les principaux stocks halieutiques auxquels les sections 6.1 et 6.2 font référence doivent être prescrits par des règlements.

[*English*]

Instead of "regulations", "*règlements*" is the proper word.

The Chair: Mr. Arnold.

Mr. Mel Arnold: I was unable to get in my translation device in time to hear the translation. Would you mind repeating? My apologies.

Mr. Pat Finnigan: I'll read the whole corrected text.

[*Translation*]

We ask that amendment LIB-1.1 be amended by adding a subclause 6.3 stipulating that:

> 6.3 The major fish stocks referred to in sections 6.1 and 6.2 are to be prescribed by regulations.

[*English*]

Instead of "regulations", the last word is "*règlements*". That's the only word that's been changed.

The Chair: Mr. Donnelly.

Mr. Fin Donnelly: Thank you, Madam Chair.

Given that this is the first time I've seen this, I'm wondering if Mr. Rogers can give us a rationale, a bit of an overview of what this is.

The Chair: Mr. Rogers.

Mr. Churence Rogers: Overall, if you look at the total amendment, it's primarily aimed at dealing with issues around stock conservation and endangered stocks. I'll use for example the cod fishery in Newfoundland and Labrador right now. It was a major decline in 2018. Obviously, the minister has to take steps to monitor what's happening with that fishery, managing it, and this amendment is aimed to try to promote proper management, keeping conservation uppermost in mind and trying to minimize any future damage to that kind of a stock.

The subamendment I introduced, the 6.3, was added because we felt as we reviewed this amendment that there needed to be some kind of provision indicating the obligations that are in 6.1 and 6.2, and that they only apply to fish stocks prescribed by these regulations in order to narrow the scope of the legislative obligation and essentially would not apply to all fish stocks, but only those prescribed in the particular regulations that we're talking about. If we do not add this provision, all obligation will come into force upon royal assent, which would be extremely challenging to accomplish and potentially open the department to some legal challenges. That was the tidying up piece that we did after we asked this to stand.

That's the amendment and the intent of the amendment is very responsible management and erring on the side of conservation and good management.

● (0905)

The Chair: Mr. Arnold.

Mr. Mel Arnold: I'd like to ask for further explanation from Mr. Rogers. Would this amendment only apply the requirement for the minister to set limits on sustainability to fish stocks that were managed under regulation, not all fish stocks?

Mr. Churence Rogers: I think probably I could turn to the officials and ask them to comment on some of that.

Mr. Mark Waddell (Director General, Fisheries and Licence Policy, Department of Fisheries and Oceans): Madam Chair, in essence the requirements would come in and require a legal obligation for the minister to invoke measures to rebuild or protect the stocks as these are identified. The stocks that are already in healthy zones, which would be captured in section 6.1 of the amendment itself, would be identified through regulations. Once listed, we would be legally obliged to ensure the protection of those stocks.

The Chair: Mr. Donnelly.

Mr. Fin Donnelly: Thank you, Madam Chair. I wanted to follow up as well. I appreciate Mr. Rogers' explanation; that's helpful.

I'm looking at proposed paragraph 6.1(2). It says, "The Minister shall set a limit reference point and implement measures to maintain the fish stock at or above that point, taking into account the biology of the fish and the environmental conditions affecting the stock".

Does this become a legal requirement if this is passed? Could the officials comment on that? Also proposed paragraph 6.1(3) goes on to say, "...he or she shall publish the decision...on the Internet site of the Department of Fisheries and Oceans".

Is there a timing or would that be set out in regulations? When is this published? What's the duty to publish in terms of timing?

Mr. Mark Waddell: The department already has a number of integrated fisheries management plans posted on its website. It also received funding in 2017 to enact rebuilding plans for 19 species as identified by the commissioner of the environment and sustainable development. A work plan is associated with that. The timing would be that work plan, I would propose, which we would see us have the rebuilding plan for those 19 stocks developed by 2021 in phased measure. That is in essence through prescribed regulation, how the 6.3 amendment allows that work to be structured.

Mr. Fin Donnelly: I'm still confused. The department then will set its own time limit. Is that what you're saying? This doesn't prescribe anything. It just says it must happen.

Mr. Mark Waddell: The department already has a number of stocks to which this would apply. We feel it would apply, and we would look to enact its regulation.

Mr. Fin Donnelly: What I'm saying is 12 months, 24 months, when does it have to publish the rebuilding plan?

Mr. Mark Waddell: The rebuilding plan is the 6.2. The 6.1 is the IFMPs for which we already have 76 stocks in the healthy zone and 72 of those have IFMPs because some of them cross multiple species, multiple stocks. We would proceed with those in due course.

Mr. Fin Donnelly: In this proposed amendment to the Fisheries Act, how do the rebuilding plans differ from what we do currently?

● (0910)

Mr. Mark Waddell: This makes it a legislative obligation, for one. Right now, the rebuilding plans that are being developed by the department are based on policy; the department has had the precautionary approach policy since 2009. It's based on international standards, and while it is well recognized and adheres to the United Nations fisheries agreements, it is still policy.

Mr. Fin Donnelly: Okay, thank you.

The Chair: Mr. Miller.

Mr. Larry Miller: Mr. Waddell, further to your comments to Mr. Arnold and his question, if I understand it here, this is going to give the minister or the department, if a fishery is endangered by numbers or what have you, the powers to limit pressure on them, if I can use that term. Does that include pressure from aboriginals as far as culture and what have you? Are all pressures on that stock going to be limited if it's endangered, or is it going to be a double standard?

Mr. Mark Waddell: For clarity, the minister already has the discretionary authorities. These would limit his authorities. What we have with the 6.2 text the member just brought forward is, for appropriate cultural or socio-economic impacts, the minister can elect to not move forward with an IFMP in certain instances if the consequences are too dire.

But, yes, to answer your question, the measures would apply to all segments of the harvest.

Mr. Larry Miller: Including aboriginal?

Mr. Mark Waddell: Yes, they would be taken into consideration as the minister sees fit.

Mr. Larry Miller: Can you give me some examples where that has happened?

Mr. Mark Waddell: I think that with regard to proposed section 6.1—I mean, it's an instance and it's not specific to indigenous communities—if you think of B.C. groundfish, where you have mixed stocks, a mixed stock fishery, they're primarily targeting species such as ocean perch, but what you're catching is bycatch rockfish. That would be an example where for the sake of the rockfish you might invoke an exception, because that stock is in not the healthy zone but the "cautious" zone, and the economic or cultural impacts of invoking the requirement for that species would have large socio-economic impacts, because you'd have to limit the B.C. groundfish fishery.

Mr. Larry Miller: Can you give me an example where an aboriginal fishery has been included and they've said that you, as well as the commercial sport fishery or whatever, are not going to fish here? I want the name or the approximate location of where it has actually happened and the tribe that may have been affected.

Mr. Mark Waddell: I cannot on the spot, I'm afraid.

Mr. Larry Miller: But there are some...?

Mr. Mark Waddell: There are some. Conservation trumps FSC in the hierarchy.

Mr. Larry Miller: Could you give me some of those examples later today or tomorrow?

Mr. Mark Waddell: Yes, I can get those to you.

The Chair: Mr. Arnold.

Mr. Mel Arnold: The reference in the amendment and the subamendment refers to fish stocks that are prescribed by regulations. This would appear to me or possibly could be interpreted as fish stocks that are commercial, recreational, or aboriginal fisheries, which in interpretation is going back to the changes that were made to the act in 2012 and 2014 that referred to HADD, or the removal of HADD, and the activities that could cause "serious harm to fish that are part of a commercial, recreational, or Aboriginal fishery, or to fish that support such a fishery".

In terms of fish stocks that are under regulation, or major fish stocks, depending on the terminology you use, I interpret it to mean, as we did in the 2012 and 2014 changes, commercial, recreation, or aboriginal fisheries. Is it the intent here that the management of fisheries at sustainable levels would only apply to those types of fisheries?

● (0915)

The Chair: Are you asking the officials?

Mr. Mel Arnold: Yes, I'm asking the officials. Or the member who presented this can explain.

Mr. Mark Waddell: The wording is intended to ensure that the implications of the amendment are reflective of the federal minister's authority, rather than that of the provincial ministers. The Minister of Fisheries and Oceans manages approximately 170 major fish stocks. Those are determined through either landed value, in terms of economic value or quantity, or cultural significance, but they don't stray into provincial jurisdiction.

Mr. Mel Arnold: It doesn't apply to all fish stocks? It would only be those that are considered major or are managed through regulations, which would mean only recreational, commercial, or aboriginal fisheries.

Mr. Mark Waddell: It would be major stocks, yes.

The Chair: Mr. Hardie.

Mr. Ken Hardie (Fleetwood—Port Kells, Lib.): I have two questions.

First of all, to go back to Mr. Donnelly's questions earlier, the proposed amendment, at 6.1(3), states:

> If the Minister sets a limit reference point in accordance...he or she shall publish the decision to do so, with reasons, on the Internet site of the Department of Fisheries and Oceans.

We know what they're going to do and where they're going to put it, but is there a prescribed time period within which it must be published?

Mr. Mark Waddell: Those limit reference points were developed in consultation with our science officials—

Mr. Ken Hardie: No, no. I'm asking about when the minister will publish his decisions. Is there a time period between decision day and publication day?

Mr. Mark Waddell: No, not as set out in the current amendment.

Mr. Ken Hardie: Should there be?

Mr. Mark Waddell: As long as there is sufficient time to develop the limit reference point in terms of doing the science work and the consultation with indigenous, commercial, and other stakeholders and that is not constrained....

Mr. Ken Hardie: Is this something that can be handled after the fact in regulation?

Mr. Mark Waddell: Yes. I think so.

Mr. Ken Hardie: It's one thing for the minister to make a well-considered decision, but we can't keep the communities in the dark as to what that is and the reasons for it. There has to be a reasonable expectation that if a decision is made it's going to be published within a reasonable time so people can make the adjustments, etc.

Mr. Mark Waddell: We can define that in regulation.

Mr. Ken Hardie: You can, so we don't have to deal with that here, necessarily.

I want to go to proposed subsection 6.2(2). This could be interpreted as saying that we have a fish or a stock that might be in distress—

Mr. Mel Arnold: I have a point of order, Chair.

Are we dealing with the subamendment, or the actual amendment?

The Chair: It seems to have gone all over the place, at the moment.

Mr. Churence Rogers: Madam Chair, I asked you to include the subamendment with the amendment before I started. I'm assuming we're dealing with the entire amendment.

The Chair: Yes. I believe when it was moved, it was moved with the change in it.

Mr. Mel Arnold: That's fine.

The Chair: We're able to address the main part of the amendment, as well.

Mr. Mel Arnold: Thank you.

Sorry, carry on.

Mr. Ken Hardie: On proposed subsection 6.2(2), some people could read this and say that we have a fish stock that is in distress and we want to do something about it, but the socio-economic and cultural issues may intercept whatever plan we have, and we may in fact allow for the further degradation of a fish stock, in order to offset the cultural or socio-economic impacts of any kind of a closure or restriction.

Is that the interpretation you would give to this, or can it be interpreted another way?

Mr. Mark Waddell: Even when the exception would be invoked, there would still be a minimum requirement to minimize further decline of the stocks. You have a safety net in essence in place.

As written, the amendment requires the minister to publish his decision. That's an increase in the transparency.

● (0920)

The Chair: Mr. Donnelly.

Mr. Fin Donnelly: I wanted to go to 6.2(1). The last line talks about "and implement it within the period provided for in the plan".

Could you explain a little bit what that means?

Mr. Mark Waddell: Each stock would have its own rebuilding requirements, in terms of timelines. The rebuilding plan itself would define that period. You can surmise that for a certain species that timeline would be different, given the generation times, the recruitment to the stock, the ocean conditions it is facing, the predation, fishing pressures, and the like. That plan will define the timeline to rebuild that stock.

Mr. Fin Donnelly: For instance, one stock could take three years, one five years, one 10 years, that sort of thing?

Mr. Mark Waddell: Yes, on average. We would turn to the international guidance on that. The norm is 1.5 to two generations, for the species.

Mr. Fin Donnelly: Could the officials explain what "major" means in 6.3? The suggested change is the "major fish stock" referred to.

What is a "major fish stock"?

Mr. Mark Waddell: Major fish stocks are the stocks that are identified through either cultural importance, socio-economic value of the landed catch, or quantity of landed....

There are about 170 of them currently. That has been trending upwards over time as additional species are sought out commercially.

It is defined through policy.

Mr. Fin Donnelly: Are there other fish stocks that would not be captured by this amendment, this motion?

Mr. Mark Waddell: There are other fish stocks that would not be captured.

Mr. Fin Donnelly: How many, roughly? Are we talking dozens, or hundreds?

Mr. Mark Waddell: There are 450-ish species in Canada, of which not all are within federal domain. A large portion of those would be provincial jurisdiction.

I can't begin to put a calculus on the differential between the total and the major.

Mr. Fin Donnelly: Thank you.

I have a last question, again going back to Mr. Hardie. I appreciate him asking for further refinement on what I was trying to ask. I don't know if this would be a reasonable amendment, when we deal with this subamendment, and get to it.

A proposition might be something like, "within a reasonable time" be added to subsection 6.1(3). I know I can't propose it until we deal with the other subamendment, but since I have the floor it's:

> If the Minister sets a limit reference point in accordance with subsection (2), he or she shall publish the decision to do so,

and then "within a reasonable time", and "with reasons", etc.

I know I can't propose that now.

The Chair: I'd like to clarify that we are not dealing with the subamendment, because when the amendment was moved, it had the change in it. It's all one amendment that we are dealing with right now. There is no subamendment. What was moved had the extra line in it, so it's not a subamendment.

Mr. Fin Donnelly: Okay, I would like to throw out that consideration, unless Mr. Rogers would be open to considering that idea. If he is, he could speak to it. If not, I'm happy to make that motion.

Mr. Churence Rogers: Madam Chair, I'm not so sure that would accomplish anything really. The bottom line is that when you're talking about the sustainability of fish stocks or rebuilding the fish stocks, there are a lot of important decisions to be made.

Obviously we don't want to see the catastrophe of 1992 repeated with the northern cod stock in Newfoundland and Labrador. The whole intent of this amendment is to put into place something that requires the department and the minister to make good sound judgments and decisions around fish stocks, based on the science and what we save year over year.

As an example, in 2018, we had some decline in the northern cod stock that we didn't expect in Newfoundland and Labrador, so we expect that the minister will try to bring in some measures that allow that stock to continue to build, even though the biomass is much bigger than it was 20 years ago. It is much larger. Nevertheless, that is the whole intent of this amendment.

I don't see the reasoning behind putting in any kind of time limit here, or trying to suggest that we have a certified timeline for this kind of amendment. I don't support that, Madam Chair.

● (0925)

Mr. Fin Donnelly: Madam Chair, if I could further clarify, this is about publishing the information. With all due respect, it's not about setting even the reference point; it's just about publishing.

Perhaps I could hear from the officials if adding a reasonable time of publishing—which captures what I think you were suggesting to the committee—makes sense. I think what was suggested was that the department is going to say that "a reasonable time" will be defined within regulations.

Mr. Churence Rogers: Madam Chair, could we suspend for a couple of minutes?

The Chair: We will suspend.

● ——————————— (Pause) ———————————

●

The Chair: Mr. Rogers.

Mr. Churence Rogers: Madam Chair, after conferring with my colleagues here, we're prepared to accept Mr. Donnelly's proposal that suggests that we would put in the "reasonable" time frame.

We are good with that.

The Chair: Okay, Mr. Donnelly, would you like to propose a subamendment?

Mr. Fin Donnelly: I would move that we add, in proposed subsection 6.1(3), after the comma, after "so" and before the word "with", "within a reasonable time".

The amendment would read:

> (3) If the Minister sets a limit reference point in accordance with subsection (2), he or she shall publish the decision to do so, within a reasonable time and with reasons, on the Internet site of Department of Fisheries and Oceans.

The Chair: Is there any discussion on the subamendment?

(Subamendment agreed to)

The Chair: We will go back to the amendment as amended, and we have Mr. Arnold.

● (0930)

Mr. Mel Arnold: Madam Chair, first of all, I would like to seek clarification from Mr. Waddell. This refers to the major fish stocks that are prescribed.

Would this apply to fish stocks any differently from how the current act applies to commercial, recreational, or aboriginal fisheries, or fish that support such a fishery? Would it apply to stocks any differently from the current act?

Mr. Mark Waddell: I honestly can't speculate as to the member's intent on this.

Mr. Mel Arnold: I'm simply asking how it's going to apply to different fish stocks. Would it apply to any different fish stocks than what are covered under section 35 of the current act? In other words, minor fish stocks, or fish that are not part of a commercial or recreational or aboriginal fishery, or fish that support such a fishery.

Mr. Mark Waddell: Section 35 of the act would be broader than this as a way to encompass fish habitat as well.

Mr. Mel Arnold: Section 35 would apply over this, then, by saying section 35 is broader.

Mr. Nicholas Winfield (Director General, Ecosystems Management, Department of Fisheries and Oceans): Section 35, which is the former, "serious harm" prohibition to "commercial, recreational or Aboriginal fishery," is amended here to refer to, "all stocks" or "all fish."

Mark is referring to the subset, which are the main fish stocks, which will be prescribed in regulations. The rebuilding plans would not apply to all species of fish in Canada. They would only apply to those that are listed in regulations, which are the major fish stocks. The reason is that these are species that are being managed for commercial, recreational, or aboriginal use as compared to species that may simply be part of the ecosystem that are not being harvested for human use.

Mr. Mel Arnold: The requirements of the fisheries management in this subamendment would not apply to fish stocks that are not commercial, recreational, or aboriginal fisheries.

Mr. Mark Waddell: That's correct.

Mr. Mel Arnold: Thank you. Further on this, you mentioned consequences "too dire" to move forward with proposed subsection 6.1(1) in referring to proposed subsection 6.1(2), that if consequences were "too dire" to move forward with (1), that is when (2) would apply.

Can you explain what you mean by situations "too dire"?

Mr. Mark Waddell: I had started to provide a response to that, but I can elaborate on it. That was the B.C. groundfish example I was citing, where incidental catches, rockfish, which is a species that is in the cautious zone.... If we were to invoke rebuilding measures to ensure that the "targeted species" in all targeted species were to be well into their healthy zone, which is the...implications of the...at sustainable levels, then that would cause us to limit the extractions of rockfish, whereas we've already invoked all the protection measures we can on that species. To ensure that we're not having undue socio-economic harm by closing the entire B.C. ground fishery, for example, we would have that 6.2 amendment passed.

Mr. Mel Arnold: Further, on 6.1(2), it appears that this is providing an out for the minister to manage any fish stocks at a sustainable level. Is that a correct interpretation?

Mr. Mark Waddell: It's still requiring the minister to identify the limit reference point, which would be where the species would tip over into the critical zone, so it would ensure that all species—

Mr. Mel Arnold: But that limit reference point would be below sustainability.

Mr. Mark Waddell: No, that is the point of sustainability. The cautious zone and the healthy zone lie above that point, so it would ensure that the measures that are in place in that stock would be growing that stock within those zones, not dipping down into the critical zone.

Mr. Mel Arnold: But section 6.1(1) requires the minister to "maintain prescribed major fish stocks at or above the level necessary to promote the sustainability of a stock", so it's requiring the minister to maintain stocks at the sustainable level.

● (0935)

Mr. Mark Waddell: At a higher level, correct, for those that are already there and for those that may be slightly into the cautious zone, that sort of tranche below the healthy zone.

Mr. Mel Arnold: "Sustainability" is the term in section 6.1(1), so if they're no longer sustainable, as in 6.1(1), what are they?

Mr. Mark Waddell: We'd be then invoking measures such as closing certain areas during certain seasons or limiting tack, or changing gear type to ensure there is minimal harm on the stock in question and allowing that stock to grow back towards the healthy zone.

Mr. Mel Arnold: It's allowing activities to take place that affect a stock that is below sustainable levels.

Mr. Mark Waddell: We would invoke measures to promote the sustainability of that stock.

Mr. Mel Arnold: Madam Chair, thank you. In the earlier amendments and so on, I believe we brought in changes that addressed environmental flows necessary to maintain fish stocks. Would proposed subsection 6.1(2) also allow the minister to circumvent the requirements of environmental flows in the management of fish stock?

Mr. Nicholas Winfield: The intent of this section is to address management of the fishery and ways to manage the fishery to ensure rebuilding.

In the case of managing flows, these are about managing ecosystems to sustain fisheries and minimize the impacts and threats to those populations. I think there are two different things. They're not related to each other.

Mr. Mel Arnold: You think there are two different things, or are they?

Mr. Nicholas Winfield: The legislative authorities in this section are about managing fishery and the impacts to fisheries from fishing. The sections that we referred to earlier are about managing the impacts of any industrial and human development activity on those populations. They have different intents. They have the same outcome, but they have different methods to achieve the goal. In both cases, we're trying to sustain fisheries. One is managing human impacts from industrial or human activities, the other is managing the fishing pressure.

Mr. Mel Arnold: Thank you for bringing us back to managing fisheries, which is what's in the "Purpose" section of the act. This proposed subsection 6.1(2) seems to circumvent the purpose of the act, which is—if I can have a second to get back to it—to provide a framework for the conservation and protection of fish and fish habitat, including prevention and pollution, and in rough terms, what the purpose of the act is. Proposed subsection 6.1(2) seems to circumvent that purpose.

Mr. Nicholas Winfield: I would just say that it's very much intended to achieve the goal of conservation of fisheries.

Mr. Mel Arnold: I would disagree.

Thank you, Madam Chair.

The Chair: Mr. Miller.

Mr. Larry Miller: Mr. Waddell, I want to continue on Mr. Arnold's second-last point.

You talked at one point about a fishery or a population that was deemed in danger, so it moved from the good zone into cautionary. So let's say, hypothetically, that the minister deemed the appropriate thing to do would be to cut the fishery by 50%, quotas in that area, etc. Do you understand where I'm going? Does it include all pressures? Is the minister mandated to include the aboriginal portion of it? Are all pressures on it? Yes or no?

Mr. Mark Waddell: The FSC provisions would be constitutionally protected to be a priority, but they would probably be reduced in such a circumstance.

● (0940)

Mr. Larry Miller: Probably.

Mr. Mark Waddell: It would depend on the depth of the cut.

Mr. Larry Miller: This would apply to everything, to all pressures on it?

Mr. Mark Waddell: Yes.

Mr. Larry Miller: Commercial, sports fishery...?

Mr. Mark Waddell: You'd start by backing out the commercial, then you back out the recreational, and then you back out the FSC.

Mr. Larry Miller: Okay.

Gentlemen, the reason that I'm pressuring on this is there's a reluctance and a hesitancy for anyone to challenge the detrimental effects that natives and cultural pressure have on fisheries and hunting. If we don't get strong enough wording in this, it will continue to be ignored because, frankly, nobody wants to tackle it. I'll give you an example. In Ontario right now, our moose hunt will probably end in five to 10 years, maybe sooner, and I'll tell you what the main reason is. It's because—while I have no problem with a native hunting and that kind of thing—they don't follow the same rules as us. They're going right into the wintering grounds and they're shooting when the cows are full of calves. It's indiscriminate. Right now the Manitoba government has made a move on spotlighting—in our part of the world, it's known as jacklighting. They go in with lights and they're shooting the moose. So they're going to put a stop to it.

The Chair: Mr. Miller, that's outside the scope of the—

Mr. Larry Miller: No, it isn't. I'm using—

The Chair: You're talking about moose hunting, and we're trying to deal with these regulations.

Mr. Larry Miller: I'm using that as an example, because governments have failed or don't want to step into it. I can tell by Mr. Hardie's last question that he's uncomfortable with this as well. It isn't mandated strongly enough in here that the minister look at all pressures. That's all I'm pointing out. I'm using moose hunting as an example, because that's what happens when you ignore a problem.

I'll leave it at that.

The Chair: Thank you, Mr. Miller.

Mr. Hardie, you're good?

Mr. Ken Hardie: Yes.

The Chair: We'll go back to Mr. Arnold.

Mr. Mel Arnold: To the officials again, I'm just trying to get clarification here so we know for sure what we're talking about. What is the difference between the class of fish described in this amendment, which is "prescribed major fish stocks", and "fish that are part of a commercial, recreational or Aboriginal fishery" or "fish that support such a fishery"?

What is the difference between prescribed major fish stocks and the other existing description?

Mr. Mark Waddell: Major fish stocks are those that have a significant commercial value, normally around or in excess of $1 million. They have significant socio-economic and cultural implications, or they're a large landed-quantity tonnage.

Mr. Mel Arnold: Is there a difference between the description you've just given and fish that are part of a recreational or aboriginal fishery, or fish that support such a fishery?

Mr. Mark Waddell: The fish that support such a fishery is the distinction.

Mr. Mel Arnold: So fish that support such a fishery may not be covered under this amendment?

Mr. Mark Waddell: They would probably not be deemed as part of the 170 that are major stocks in Canada.

Mr. Mel Arnold: Thank you.

The Chair: We have to vote on LIB-1.1.

Mr. Larry Miller: I want a recorded vote.

(Amendment as amended agreed to: yeas 6; nays 2 [See *Minutes of Proceedings*])

The Chair: Now we'll vote on the main clause.

Mr. Larry Miller: I'd like a recorded vote.

(Clause 9 as amended agreed to: yeas 6; nays 2)

(On clause 28)

● (0945)

The Chair: We'll move now to the other clause that we had let stand, which is clause 28. We had CPC-16 and CPC-17.

Mr. Arnold, would you like to speak to those?

Mr. Mel Arnold: Yes. If we're able to move forward on CPC-16, can CPC-17 still be considered, or is there a potential line conflict between the two?

The Chair: If CPC-16 is adopted, CPC-17 cannot be moved.

Mr. Mel Arnold: Okay, then I will withdraw CPC-16.

The Chair: Would you like to speak to CPC-17 then?

Mr. Mel Arnold: Yes, I've circulated to the members and, I believe, to the legislatives clerks proposed changes to CPC-17. If you like, I can read out the new text, "That a proponent may use the certified habitat credits in respect of fish habitat to offset the adverse effects of fish or fish habitat within a service area accessible by the species of fish affected by the carrying on of work or activity authorized or permitted to be carried on in that service area."

My reasoning behind this is that the term "watershed" was deemed to be likely not acceptable, and this term "service area" seems to be somewhat used through the act or intended in the regulation.

What I intend by this amendment is that the habitat credits be in an area that is accessible to fish that may be affected by a project. Because service areas aren't defined yet, I think we should do due diligence and make sure that this in the legislation. The service area could be an entire watershed. I give an example of the Fraser River watershed, which could mean anything from almost downtown Vancouver or Richmond to McBride in the Rocky Mountains, all within the same Fraser River watershed, but certainly not accessible by all fish species that may be affected in one service area. I would like it to be included so that species affected by a project would have access to the habitat banking that is done in mitigation of the project.

The Chair: Mr. Donnelly.

Mr. Fin Donnelly: I appreciate Mr. Arnold's explanation and his clarifying motion here. Could I ask the officials about service areas? I think this is an important point.

DFO works with management areas and conservation units, so is "service area" a standard term? Does "management area" or "conservation unit" fall within service areas? Could there be some clarity on that?

Mr. Nicholas Winfield: Thank you. I also, for the record, wish to apologize for the last meeting when I said there was no definition of "service area." There is a definition of service area in the bill. That definition is:

> service area means the geographical area that encompasses a fish habitat bank and one or more conservation projects and within which area a proponent carries on a work, undertaking or activity.

That's the definition found in the bill, which covers your thinking, Mr. Arnold, with respect to its physical location. The policy interpretation of a service area—built into existing policy documents and consistent with international literature—essentially says that the service area should be based on consideration of ecological criteria such as a watershed boundary, a drainage area, an eco-zone, a bay, a lake, fisheries management objectives and, if applicable, jurisdictional boundaries.

The policy interpretation is in line with your rationale that you proposed, and the definition that is in the act currently captures the issue that you have put forward.

To get to your point, Mr. Donnelly, the units of measure would include things like a conservation unit, which is used in our management policy for salmon, for example. It can also extend to a slightly larger area, should that be necessary for sustaining populations of fish that are impacted by the projects in question. The whole idea is to nest the impact area and the habitat bank within one ecological unit, but we do not have terminology in the act for those ecological units because they vary based on the populations of fish that use those areas. For a non-migratory species, it could be a very small lake. For a large migratory species, it could be quite large in terms of a larger watershed.

● (0950)

The Chair: Mr. Winfield, do you have the page number that that is in the act?

Mr. Nicholas Winfield: The definition...?

The Chair: Is that what you wanted, Mr. Arnold, the definition?

Mr. Mel Arnold: Yes, in the current act.

Mr. Nicholas Winfield: In Bill C-68, it's on page 31, and it's under "Definitions", proposed section 42.01, and the "service area" definition is found there above proposed section 42.02. It's on page 31 of the bill.

Mr. Mel Arnold: Okay, I thought it was the act.

The Chair: Fin.

Mr. Fin Donnelly: Thank you, Madam Chair. This is very helpful, but you alluded to the nesting, and that's where I was going. Could you provide a little more clarity about how a conservation unit is nested? Is it within a service area? Could you just explain a little bit more about that?

Mr. Nicholas Winfield: That is correct. A conservation unit would be nested within a broader management zone. For Pacific salmon conservation units, designatable units are used to describe areas that specific populations or subpopulations use to spawn and reproduce. That is one unit of measure that could be used, but it can also be scaled up if we wish to address migratory areas as well as just the spawning and nursery areas for those fish.

Mr. Fin Donnelly: Mel used the example of the Fraser watershed and species of salmon. For instance, if the Harrison River is affected in the mouth by a project, if you damage that area of the mouth of the river—say, with a bridge, a building, or whatever you put there, and you damage that habitat—could you rebuild, then, in the Harrison? Is that consistent within the service area?

Mr. Nicholas Winfield: If the stocks that were impacted by the initial development used the Harrison, then that could be considered within the service area; but it's intended to tie it to the populations of fish that were impacted by the project and their geographical range.

Mr. Fin Donnelly: Some of those ranges are huge. Mel was talking about the Fraser, and you have chinook salmon that would go up from Vancouver to McBride. This is a huge area. That was part of my concern with having such a large unit: you could destroy one part of the watershed and overcompensate in another part. That's the concern.

I guess you were trying to get at that, Mel.

The Chair: Mr. Arnold.

Mr. Mel Arnold: You've clarified what's in the bill. Were you quoting the "service area" description, the definition?

● (0955)

Mr. Nicholas Winfield: Yes.

Mr. Mel Arnold: I don't see anything in that definition that would require it to be an area that is accessible to the species impacted by a project. That is why I've proposed this amendment: to make sure habitat banking that is done and exchanged is in direct relation to species that are impacted.

Mr. Nicholas Winfield: I completely understand your question. The way the bill was constructed was intended to achieve your objective, but I appreciate your seeking additional clarity.

Mr. Mel Arnold: Would you agree that the amendment adds further clarity and puts it within the act, rather than relying on regulation after the fact to hope it would be effective?

Mr. Nicholas Winfield: What's put in proposed section 42.02 is to define a scheme. An agreement has to be entered into with a proponent to create a habitat bank within a geographical area. The scheme that's put forward in the bill seeks to define that boundary. The agreements that we have in place have always followed the principle that you're described, which is to work within an area that is within the immediate zone or adjacent zone for the populations that are impacted. We have a number of these with small municipalities, which have defined a service area that is proximal to the project site. They have not expanded to the magnitude that you described for the Fraser, going up to McBride, for example.

Mr. Mel Arnold: These are all management agreements that have been done under policy. There's nothing in the act that would prescribe that that take place, unless we adopt this amendment.

Mr. Nicholas Winfield: You're correct. The service area is the only language that we would have to nest that out.

Mr. Mel Arnold: Thank you.

The Chair: You've heard the CPC-17 amendment. Shall the amendment carry?

(Amendment negatived [See *Minutes of Proceedings*])

The Chair: Shall clause 28 carry?

Some hon. members: Agreed.

An hon. member: On division.

(Clause 28 agreed to on division)

The Chair: We are now finished with the clauses that we had allowed to stand.

Shall the title carry?

Some hon. members: Agreed.

An hon. member: On division.

The Chair: Shall the bill as amended carry?

Some hon. members: Agreed.

An hon. member: On division.

The Chair: Shall the chair report the bill as amended to the House?

Some hon. members: Agreed.

The Chair: Shall the committee order a reprint of the bill as amended for the use of the House at report stage?

Some hon. members: Agreed.

The Chair: We are done, gentlemen. Thank you very much.

We will take a short suspension and go in camera for the next 45 minutes of our meeting. Thank you to our officials for being here for the last two days. To the legislative clerks, thank you for your assistance today.

[*Proceedings continue in camera*]

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